

## **Section 6. STREET ACCEPTANCE PROCEDURES**

6.1 Any person may petition the Selectmen to accept a street under this Section, provided the street is an existing roadway which corresponds in its location and lines with a street shown on a subdivision plat or site plan which has been approved by the Planning Board and all other requirements of this Section have been met.

6.2 An occasion for street acceptance shall only exist if the Board of Selectmen determines there is a public need.

6.3 The act of accepting a Town road under these policies and regulations is vested exclusively within the sound discretion of the Selectmen. The Selectmen shall not be obligated to vote to accept a road simply as a matter of right upon petition or because a road was built to Town standards or because the road has been approved by the Planning Board. However, any person may submit a petition for a warrant article to be considered at a Town Meeting whereby a street is offered for acceptance, provided all applicable procedures as determined by State Law are complied with.

6.4 A petition for the Selectmen to accept a street shall be construed as a request for establishing a Class V highway.

6.5 Upon receipt of a petition and all other required materials, the Selectmen shall schedule a discussion of the petition at their next regularly scheduled meeting for the purposes of determining whether a Public Hearing shall be held.

6.6 A warranty deed for the proposed street shall be tendered to the Town for acceptance as part of the petition. The deed language shall reference the plans approved by the Planning Board and contain specific information describing applicable bearings and distances, easements and existing features such as drainage locations, driveways, adjacent map and lot numbers, etc. No petition shall be considered for a Public Hearing without these requirements being met. Furthermore, the Town reserves the right to require any changes in the deed language which in the opinion of the Selectmen will be in the Town's Best interest.

## Alton Highway Policies and Regulations

6.7 The Selectmen will not consider a street acceptance which requires the condemnation (a taking by eminent domain) of land. As part of the request for acceptance implied by the petition, the Town must assume an offer is being made to dedicate and transfer title of the land on which the right-of-way shall be situated. Therefore, a petition for street acceptance must contain a certificate of title made out to the Town which includes all abutting owners (as defined by RSA 231:10) as irrefutable proof that the petitioner(s) have the legal authority to meet this requirement.

6.8 A petition for street acceptance must be accompanied by a copy of the plans which have been stamped and approved by the Planning Board and must include all road construction plans and specifications with as-built documentation certified by a Registered Professional Engineer.

6.9 The petitioner(s) shall be required to pay in advance, all reasonable fees incident to the request for street acceptance as set forth in Section 14.

6.10 The Selectmen may, at anytime during this process, deem it necessary for an engineering study to be conducted at the expense of the petitioner(s). Said study shall be required if the Selectmen determine professional evaluations are an essential part of the review process. In the event a study is required for the purposes of evaluating surface or sub-surface conditions, the petitioners shall bare all responsibility for the contractual arrangements and fees associated with such an investigation. However, the engineer chosen must be a New Hampshire Registered Professional Engineer who is acceptable to the Highway Agent.

6.11 Upon a determination by the Selectmen that a Public Hearing shall be scheduled, they shall have the Town Administrator cause notice in writing of a time and place of Public Hearing, said notice to be issued at least fourteen (14) days previous to the hearing. Notice of the hearing shall be sent to all petitioners and shall be posted in at least one newspaper of general circulation and in two public locations. The Selectmen shall request written testimony from the Police Chief, Fire Chief, Town Planner, Highway Agent, Town Attorney and any other Town Official as may be applicable.

6.12 The purpose for having a Public Hearing shall be to determine if a public need exists and if the proposed street meets all of the requirements established under these policies and regulations.

## Alton Highway Policies and Regulations

6.13 In considering whether or not a public need exists, the Selectmen shall conduct a review based in part upon the following criteria:

- (a) Will acceptance of the street benefit the community and not just the petitioners?
- (b) Does the street in its present condition adequately address safety issues such as proper drainage, lighting, signage and slopes?
- (c) What are the known road surface and sub-surface conditions?
- (d) Is there any documented history of an adverse nature pertaining to driveway access, pending or existing litigation, accuracy of maps, contractor defaults, etc.?
- (e) What impact will acceptance have on the ability of the Town to perform necessary maintenance and what is the likely impact on Town budgets?
- (f) Are there any existing encumbrances which would adversely affect the public interest?
- (g) Has all of the necessary construction been completed in accordance with Section 4 of these policies and regulations? (NOTE: for the purposes of this requirement, the Selectmen may consider a road to have been constructed in conformance with the Town's minimum road standards if a properly completed petition for street acceptance is received within four (4) years of a road construction bond having been released by the Planning Board, provided that no previous petition for the same road had been denied by the Selectmen.)
- (h) What is the length of the street in conjunction with the degree of use. (NOTE: A minimum of at least an average of eight residences per mile of road and fifty percent (50%) of residential or commercial development, may be considered to be a reasonable degree of use in order to demonstrate evidence of public need.)

## Alton Highway Policies and Regulations

- (i) Does the street under consideration for acceptance connect with an existing Town road or State highway within the Town of Alton? (NOTE: Streets which connect to roads in an adjacent Town will generally not be considered for acceptance without an inter-municipal agreement covering snow plowing and emergency services.)
- (j} Are there any other outstanding issues which provide convincing evidence of a public need or lack thereof?

6.14 During the Public Hearing, any person in attendance may present testimony for or against the proposed acceptance, according to the rules and in a manner prescribed by the Chairman of the Board of Selectmen. Also, the Board may schedule a site visit to view the street during any point in the review process.

6.15 At the conclusion of the hearing, the Selectmen may render a decision at their convenience. The Selectmen may also:

- (a) require the petitioner(s) to gather more evidence;
- (b) recess the hearing to another time and place;
- (c) adjourn the meeting without accepting the street or
- (d) vote to conditionally accept the street provided that a deed is neither accepted nor recorded until such time as the Selectmen, upon the advice of the Highway Agent, determine that all conditions have been met.

6.16 A decision to accept a street shall consist of a motion by which the street is defined as a Class V highway. Furthermore, said acceptance shall be conditioned upon the Town receiving a warranty deed and a signed release from each mortgage and lien holder, if applicable, in a format and containing only such language as may be acceptable to the Selectmen, at which point the Board of Selectmen shall vote to accept the deed and have it recorded at the County Registry of Deeds.

6.17 The Selectmen may also include any other conditions as part of a street acceptance as they may deem necessary to be in the best interest of the Town.

## Alton Highway Policies and Regulations

6.18 As part of this Section, the Selectmen wish it to be known that under the statutes of the State of New Hampshire, the laws pertaining to the acceptance of dedicated streets are extremely complicated and may require legal opinions and definitions beyond the ability of the Town to render assistance to any potential petitioner. Therefore, each petitioner shall, if necessary, avail of himself/herself, private legal counsel to assist in this process. The Town of Alton makes no obligation to act in any capacity which may be considered customarily in the purview of an attorney.

# PAVED

## DESIRABLE MINIMUM DIMENSIONS OF A LOW-VOLUME PAVED ROAD (MAINE)

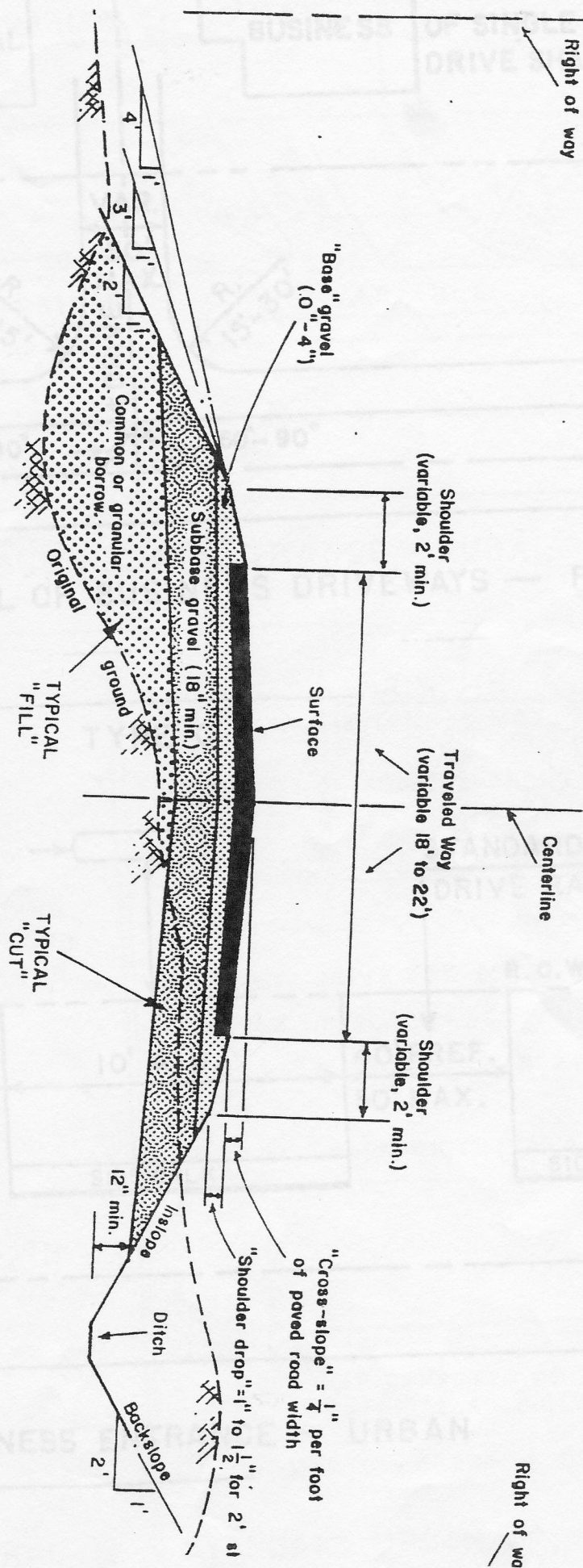


Figure 2

MAINE LOCAL ROADS CENT

Developed by

M.D.O.T.

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